

## 8.4 b Information Sheet for Refugees to prepare for official hearings with the Federal Office for Migration and Refugees<sup>1</sup>

If possible, please read this before your hearing or ask someone to translate it for you. It will prepare you for your official hearing about your reasons for seeking asylum. This document does not address the so-called "personal conversation", which determines whether Germany is responsible for handling your asylum request.

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### 1. Preliminary remarks

First of all, you should be aware of an important cultural difference between Western Europe and the home countries of many refugees: **1**

In many cultures, it is common to respond to direct questions with indirect answers, and to slowly get to the point. A short, direct answer is often considered impolite. This is not the case in Western Europe. If someone asks you a question that can be answered with "yes" or "no", it is expected that you do so. It is the same for questions that can be answered with only a few words. For example, when you are asked "Please give your date of birth", you are expected to only say the day, month, and year. You should understand that long-winded answers to direct questions can possibly be viewed as an indication that you are lying. In German there even exists a proverb meaning "to beat around the bush".

Conversations between people from Western Europe and other regions are often overshadowed by this communication problem: Western Europeans expect short answers to short questions. In Germany, anything else can be considered impolite. This happens automatically (intuition). This can be a deciding factor if someone believes you or not.

You may have trouble dealing with this communication problem, especially if you have recently arrived. The better you understand it, the better you will be able to communicate with people in our culture.

Two additional notes: Just because you are expected to give short, clear answers to questions does not mean that you are required to answer every question you are asked. You are not required to answer questions that are indecent or impolite. This is also true for questions that accuse you of a crime. For example: "Did you steal this cloth?" You do not need to answer this question. For questions like that, don't "beat around the bush". Instead, say that and why you will not answer the question. If you are asked questions

that you cannot give a short answer to, then you should say so. That is not impolite! If you are asked to tell the story of your flight in three sentences, that is obviously not possible. The person you are speaking to will and must understand this, if you make it clear.

## 2. Purpose of the hearing

You will be asked about your personal fate so the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*) can determine whether you are being persecuted. 2

To simplify things slightly, a person can be considered persecuted if he or she is – or has the fear of being - persecuted by state authorities or forces comparable to state authorities, due to race, religion, nationality, belonging to a certain social group, gender, or political beliefs. You can be considered to be persecuted even if you are only threatened by individuals. This can be the case when the authorities in your country cannot or will not protect you.

In Germany, you do not have to prove that you are in danger of persecution. However, you will have to give a logical and comprehensible explanation that is free of contradictions so the authorities believe your story. This principle should work in your favour, as normally it is difficult to prove political persecution. Sometimes this principle can be dangerous: If the authorities find any contradictions or “lies”, they won’t believe anything else you say. Do not follow advice from your fellow countrymen or any other “advisors” who tell you to describe something in a way that is different from how it actually happened. If the truth is found out later, the authorities won’t believe you anymore. There are very few people who can “lie” so well that their lies can stand up to intense scrutiny. 3

Of course you have the right not to mention things that might endanger you or other persons. In these situations you should explain this, and also give the reasons why. But don’t say anything that is incorrect. Don’t pretend to be certain of things that you are not certain of. The authorities in Germany have many means to receive information from abroad. Germany does not like to accept refugees very well, so authorities will try and portray every little inconsistency as a “lie”.

For this reason, please say everything that has happened to you or what you fear. It generally isn’t enough if you simply say you belong to a certain minority group. Usually, you will have to describe your personal story of persecution to be acknowledged as a refugee.

Please remember: Germans are very strict about dates and facts. You should have concrete answers to questions such as “who”, “where”, “what”, “when”, “how”, “why”, and “how long”. Please don’t be shy, even though it might be embarrassing for you. Even if the persons interrogating you are not very friendly, you should tell them everything that happened and what you are afraid of. It might help you to imagine that you are telling a good friend everything that has happened since the beginning of the persecution (which may have started some time ago). Even if the person you are speaking to isn’t your friend, this might help you to do what is necessary: Tell everything vividly, comprehensibly and completely. 4

## 3. Before your hearing

Before your hearing, you may be asked for some documents or they may even search your person. The authorities will be trying to determine how you entered Germany. It is also possible that they will take your identity card, passport, or official documents away from you. In every case, you should request a photocopy of these documents. This is your right. 5

Unfortunately, it sometimes also happens before or after the hearing that some officials ask refugees to sign a request for a passport from their home countries. They may even use the official forms from your home country's embassy. Under no circumstances, no matter how much they may threaten you, should you sign any such document. At this point in time, you are not obligated to do this. You're asking for refugee status in Germany and not to return to your home country!

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Again: Do not sign anything at this point that requests official documents from your home country.

You will be asked, at the latest when your interview begins, about your journey into the country. This is often discussed in the so-called "personal hearing" that happens before the proper asylum hearing. Particularly if you travelled by land, there is the danger that you will be sent to another country that you passed through on your way to Germany. All of the countries adjacent to Germany are considered "safe countries" for refugees. If you came by airplane and passed through or stopped in another "safe country", there is also the problem that they may want to send you back to that other country.

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The law requires you to truthfully explain how you travelled to Germany. Nobody may tell you to do anything else. If, as is often the case, you yourself do not know which "safe country" you travelled through, then there is no country that you can be sent back to.

If you came by land, you should consult with a lawyer, social worker, or refugee helper before your hearing.

If you travelled to Germany by airplane, you will be asked to prove this. Examples of proof would be a stamp in your passport, airline tickets, or a boarding pass. You could also use items from the airplane itself, such as the airline's magazine, a safety notice with the airline's corporate logo, napkins, utensils, a toy, etc.

If you can prove that you travelled to Germany by air directly from the country of persecution, you cannot be denied asylum without further investigation. For this reason, it is not uncommon that you will be asked questions to confuse you or to discover discrepancies in your story. Family members are often interviewed separately and you may be asked questions such as where you sat on the aircraft (aisle, middle, or window seat), what kind of food you were served, what film was shown, what kind of uniforms the flight attendants wore, the colour of the airline's logo, etc.

## 4. The hearing

Now for the hearing in which you present your reasons for seeking asylum: In this hearing, you must tell them everything that happened at home or what you are afraid of. If you or your lawyer submitted a written statement, you absolutely should re-read it before your hearing. Do not let anyone put the words into your mouth that this written statement contains all of your reasons for seeking asylum. The employees of the Federal Office must give you the opportunity to say everything, even new things. All written documents are only for the purpose of preparation!

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Avoid contradicting yourself and insist – very strongly, if need be – that you be allowed present any testimony you wish, and that everything be included in the minutes (Protokoll). Often, you will only be asked questions. If these questions don't cover everything that you want to say, you should insist on being allowed to tell them everything you think is necessary before your hearing is over. Telling everything in context is the best method.

If necessary, an interpreter from the Federal Office will be present at the hearing. Make sure that you can understand this interpreter and that he or she can understand you. If

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this is not possible, you must use all means available to you to make it clear that you are not able to adequately communicate. Do not have any false shame because the interpreter comes from your culture or your country. It is your fate that is at stake, and not the interpreter's.

The interpreter must translate everything you say into German and then translate everything the official says into the dictation machine back into your language. After the hearing, everything that was dictated is written down and then translated back into your language.

Another note: Several refugees are often scheduled for a hearing at the same time. This leads to long waiting times. You should bring sufficient food and drinks with you, as these are not always available. If you have children, bring things to keep them occupied. For small children, make sure that they will be looked after by someone else during your hearing. Small children have no place at the hearing. Their presence would only be a distraction.

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## 5. Your rights during the hearing

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- If you have a good reason to feel comfortable telling certain parts of your story only in front of certain people, notify the Federal Office prior to your hearing. For example: A woman only wanting to tell her story to another woman. The same may also be true for a man who has had traumatic experiences. The Federal Office has specially trained personnel called "decision makers with specific function" (*Entscheider mit Sonderaufgaben*). If you need to, you can and should ask specifically for someone with this training for your hearing (or if you would prefer ask for a woman with female translator or a man with a male translator). If this request is denied, you have the right not to participate in the hearing. I encourage you strongly to exercise this right.

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- You can bring a translator of your choosing to every hearing. You can even bring an authorized representative of your choosing (such as a friend) as a witness; this is explicitly mentioned in the law. You are, of course, also allowed to bring a lawyer to your hearing.

If it is at all possible, I advise you to bring your own translator or other trusted person with you. Experience has shown that when you do, the hearings tend to be more thorough. Additionally, you will have a witness if there are any irregularities. Your trusted person or translator is not allowed to speak for you, as he or she was most likely not present at your persecution. Nevertheless it is helpful to have a trusted person present. Additionally, this person can also check and ensure that nothing is left unclear and any misunderstandings are addressed.

In the event that your translator or trusted person is not allowed into your hearing, refer to this information sheet and insist that they be allowed to be present. Explain that you wish "to designate them as an authorized representative for the duration of the hearing" (für die Dauer der Anhörung bevollmächtigen). If your translator or authorized person is still not permitted to participate in your hearing, you have two options: You can leave the hearing. You cannot be sanctioned for doing so. Or, you insist that the refusal to admit your authorized party or translator is noted in the minutes (Protokoll) of the hearing. This is very important!

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- Further, you have the right to say everything that you want. And everything that you say must be included in the minutes of the hearing. Do not allow anybody to prevent you from telling your story in context. Everything that you tell in context also must be

written down, even if it was (partially) addressed in an answer to an earlier question.

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- You can write down notes for yourself on difficult subjects ahead of time. You cannot be forbidden from writing facts down and bringing the paper to your hearing. The person conducting the hearing does not have the right to view or take your notes away from you. However, it is always better if you can tell your story vividly without written notes.

**15**

- Should you ever be questioned about or confronted with a document from your file or somewhere else, you have the right to review their records. This is written in § 29 of the Administrative Proceedings Law (*Verwaltungsverfahrensgesetz*). An asylum hearing is not a secret proceeding; you must be allowed to review these documents and, if necessary, they must provide you with a translation before you can be questioned about them.

**16**

- If you do not speak German, you have the right to have everything that is said translated back to you. Do not give up this right! Under no circumstances should you sign any document that says you renounce your right to have everything translated back to you. Insist that every word is translated back to you. Do not allow the translator to provide you only with a summary of the contents of a page or a paragraph. Often, you will be told something along the lines of "*here is what you just said about ...*". Under no circumstances should you accept this. You must check to make sure that everything was written down correctly; therefore, you should make sure every word is translated back to you.

**17**

- You have the right that everything taken down in the minutes of the hearing is what you actually said. Sentences often appear in the minutes that were never said, such as:
  - "*The applicant stated that she had no problems communicating with the translator.*"
  - "*The applicant stated that he has said everything that he had to say.*"

Insist that sentences such as these be stricken if you did not say them. You should make it clear that you will not sign the minutes of the hearing unless those sentences are crossed out, because the minutes must contain what you said and not what the Federal Office wants you to have said. If you are not presented with the minutes to sign, insist that they take down in writing which changes you wish them to make.

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- Furthermore, you have the right to have everything written down as you have said it. Often, errors happen in the translation process, during dictation, or when writing down the dictation.

Here is an example:

You said that you left your home country on 10 January. In the minutes of the hearing, it says "*The applicant stated she left her home country on 1 January.*" Make sure that this is corrected. Do not allow them to add a sentence to the minutes such as: "*The applicant corrected the date while having the minutes translated back.*"

In the example, you did not correct the date; the error occurred when they were listening to you, translating your statement, or writing your statement down. Such "corrections" are often used by the Federal Office to justify rejections as "inconsistent"!

Can you see how important it is to bring someone to your hearing that you trust?

## **6. Other important things you should keep in mind:**

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- At the very beginning of the hearing, make it clear that you wish to take a copy of the minutes with you when you leave and that before the end of the hearing, you wish to have the minutes translated back to you.

**20**

- If you had any papers that were taken from you, you should request that copies be provided to you. If this is not done, demand that this be noted in the minutes.

**21**

- You should never sign anything that is incorrect, that you didn't say, or that you do not understand. It is better to sign nothing than to sign something that is wrong or that was not translated back to you word for word. You cannot be sanctioned if you refuse to sign something. Remember the following advice: If you ever have any doubts, don't sign!

**22**

- The hearing will seem foreign and unusual for you, maybe even frightening. Don't be intimidated. You are the most important person at the hearing; everything you would like to say can and must be said.

**23**

- If your translator or trusted person has questions or would like to offer clarification, make sure that they are allowed to ask questions or provide explanations. If this is not allowed, insist that this be noted in the minutes; when in doubt, do not sign the minutes of the hearing.

**24**

- The quality and friendliness of the people who interview you varies. Some are very friendly, some are very unfriendly, and some are "neutral" and difficult to judge. No matter how your interviewer acts, you must insist that all of your rights are respected. You should also be friendly, determined, or "neutral". Even if your interviewer is friendly, you still should not give up even one of your rights!

**25**

- Don't let yourself be led into making any statements that you haven't already discussed with your lawyer, if you should have one. Never make any declarations like that you waive the right to apply for asylum for your children. If you are asked to make this type of statement, say that you need to discuss it first. Any additional statements can be submitted later in writing.

**26**

- Under no circumstances should you give any kind of statement that you have said everything you need to about your persecution. For one, your whole story can probably not told in one sitting. Besides, you may remember other things later that you forgot to mention because you were nervous during your hearing.

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- Do not allow yourself to be rushed during the hearing. You have the right to take as much time as you need to tell the story of your fate.

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I wish you success with your hearing. Please do not be afraid. If you take the suggestions

from this information sheet to heart, not much can happen to you. At least you can be certain that you receive a fair hearing. And another thing: Do not be afraid to insist that your rights described in this information sheet be observed. Exercise your rights. Germany aspires to be a democratic country and part of democracy is recognizing that every person has rights. You should think of this as an important exercise of democracy and freedom.

## 7. After the hearing

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- You should receive a copy of the minutes of the hearing from the Federal Office. If not, insist that you be given one. You should make a copy and give it to your lawyer, if you have one.

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- After the hearing, you should sit down with someone who speaks both German and your language to translate the minutes of the meeting into your language a second time. This is not something your lawyer can do for you. You need to find a translator yourself. It is common that when you have the minutes re-translated you will find additional misunderstandings and problems that you should notify your lawyer or the Federal Office about.

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- If there were irregularities with your hearing, you should sit down and write down as many of the events of the hearing as you can remember, such as:
  - If you think of anything after the hearing that you wanted to say.
  - If your translator or trusted friend was not allowed into your hearing.
  - If there were problems with the Federal Office's translator.
  - If something incorrect was included in the minutes.
  - If you were denied a copy of the minutes.
  - If and why you did not sign the minutes.
  - If you have the feeling that you were not understood.
  - If there is anything unusual that you feel you should mention.

Your written version of the minutes should be given to your lawyer or advisor as soon as possible so that they can take the necessary steps.

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- If you have any irregularities to report or comments to add to the minutes, you should tell your advisor or lawyer as soon as possible. If more time is necessary for this, call your lawyer/advisor and say that you will be sending them something in writing. This will allow your lawyer to immediately notify the Federal Office that you wish to submit an additional statement to clarify or expand on your testimony.

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- If you have any comments on the minutes of the hearing, you should submit them as follows: Take a copy of the minutes and mark each place where you have a comment with a number. On a separate sheet of paper, write out a numbered list of your comments or objections in German or a language that your lawyer or advisor can understand. Each number in your list should correspond to the numbers you wrote on the copy of the minutes.

## 8. What to do if your application is rejected

You can apply to have the rejection reviewed by the administrative court. You must be careful that you do not miss the appeal deadline. If you do not appeal the decision by the deadline, the decision will become final without any additional review. For this reason, you should read (or have translated) the "Instructions on your right to appeal" (*Rechtsmittelbelehrung*) that is included with every official notice. If you do not already have a lawyer, you should immediately get one now.

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There are several different types of rejection you can receive. These are:

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- The most complicated outcome is when the Federal Office decides that you should be sent to another country that you travelled through on your way to Germany. In these cases, you only have one week to appeal this decision.

It is very important to note: Even if you have a lawyer, the authorities will serve the decision to you directly and the deadline to appeal this rejection is one week from when you are told. Your lawyer will often only be notified informally, if at all. It sometimes takes several days for such notification to reach the lawyer. If you have one, you should call your lawyer at once or immediately look into finding one so you can submit an appeal before the deadline.

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- If your claim is rejected as "obviously unfounded" (*offensichtlich unbegründet*), you also have only one week to appeal this decision. In addition to your appeal, you also need to ask the court for an injunction (*Eilantrag*). This is to prevent you from being deported before your appeal has been heard. Again, it is important to find a lawyer at once if you do not already have one.

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- If your claim is only rejected as "unfounded" (*unbegründet*), you must also file an appeal. The deadline for your appeal is two weeks, which is also quite short. Inform your lawyer at once or locate one immediately who can assist you.